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Gearing up for LLC suspension program

The Franchise Tax Board (FTB) and Office of the Secretary of State (SOS) are currently working together to implement a suspension/forfeiture process for Limited Liability Companies (LLCs).

In early 2009, FTB will begin to suspend/forfeit the rights, powers, and privileges of LLCs for non-payment of taxes, penalties, or interest, and/or failure to file a return (Revenue and Taxation Code Sections 23301, 23301.5 and 23304.1(d)). The LLC suspension/forfeiture process will be very similar to the one for corporations. This action will help FTB bring LLCs into compliance and reduce the tax gap.

Implementing the suspension/forfeiture process will have a dramatic effect on LLCs that have failed to meet their filing and payment obligations. We will send notification to all entities at their last known addresses, 60 days before imposing suspension/forfeiture.

Non-registered LLCs acting and filing in California will be subject to contract voidability. The reasons for contract voidability are the same as for suspension/forfeiture: failure to file a return, and/or failure to pay taxes, penalties, or interest.

New way to report fraud

FTB has a new, online, self-service option for reporting suspected income tax fraud. The online *Fraud Referral* form gives honest taxpayers a simple way to provide information about the fraudulent activities of others, at their convenience.

Honest taxpayers pay more than their fair share when dishonest taxpayers shirk their legal tax responsibility. Disreputable tax practitioners who advise their clients on illegal ways to evade or avoid tax are equally responsible for the tax gap, and give the profession a bad name. They obtain an unfair business advantage over law-abiding tax professionals, by neglecting to pay their own taxes, as well as by soliciting clients with promises of unwarranted tax savings.

Taxpayers and practitioners have provided thousands of tips on the fraudulent activities of individuals, businesses, and tax practitioners who are contributing to the tax gap. Tips are most valuable when they provide all the information necessary for investigating a case. The online form assigns a referral number to the tip that the informant can include when sending in any supporting records. This helps associate the supporting records with the referral. The referral number also allows informants to provide additional information later, to update the original tip.

While informants may still use our hotline, mail, or fax options, we believe they will find the online fraud referral form quick and easy to use. To access the form, click on the Contact Us tab, and select the link for [Reporting Income Tax Fraud](#).

FTB follows federal postponement dates for hurricane victims

Taxpayers who live in the federally declared disaster areas affected by Hurricane Gustav and Hurricane Ike will be granted special tax relief for their California income taxes.

Hurricane Gustav

Hurricane Gustav was declared a Federal disaster for affected areas in Louisiana. Special federal disaster treatment applies for California purposes. FTB will postpone deadlines until January 5, 2009, for affected taxpayers to file returns, pay taxes, and perform other time-sensitive acts for deadlines falling on or after September 1, 2008, and before January 5, 2009.

The relief applies to taxpayers who live in, or have a business located in the following parishes: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Calcasieu, Cameron, Catahoula, East Baton Rouge, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, LaSalle, Livingston, Orleans, Plaquemines, Pointe Coupee, Rapides, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, West Baton Rouge, and West Feliciana.

Hurricane Ike

The IRS granted taxpayers relief after the federal government declared affected areas a presidential disaster area. That relief applies for California. FTB will postpone deadlines until January 5, 2009, for affected taxpayers to file returns, pay taxes, and perform other time-sensitive acts for deadlines occurring on or after September 11, 2008, and before January 5, 2009.

Hurricane Ike was declared a Federal disaster for affected areas in Texas and Louisiana. The relief applies to taxpayers who live in, or have a business located in the following counties in **Texas**: Angelina, Austin, Brazoria, Chambers, Cherokee, Fort Bend, Galveston, Grimes, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Madison, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Washington.

Relief is granted for the following **Louisiana** parishes: Acadia, Beauregard, Calcasieu, Cameron, Iberia, Jefferson, Jefferson Davis, Lafourche, Plaquemines, Sabine, St. Mary, Terrebonne, Vermilion, and Vernon.

Taxpayers not living in the disaster areas, but whose books, records, or tax professionals' offices are in the covered disaster area, are also entitled to relief. Relief workers affiliated with a recognized government or philanthropic organization assisting in the relief activities in the covered disaster area are also included.

Your clients who need copies of lost or damaged state returns should complete Form FTB 3516, Request for Copy of Tax Return. Disaster victims receive free copies of tax returns. Print **Louisiana/Hurricane Gustav**, **Louisiana/Hurricane Ike**, or **Texas/Hurricane Ike** in red at the top of the request.

For more information, refer to [IRS News Release 2008-100](#). To learn more about state disaster losses, refer to publication [FTB 1034, Disaster Loss](#) at [ftb.ca.gov](#) or the IRS 547, [Casualties, Disasters, and Thefts](#) at [irs.gov](#).

IRS helps small businesses, self-employed locate essential information

Two new IRS products make it easier for small businesses and the self-employed to locate the information they need on the IRS's website, [IRS.gov](#).

These new products are part of a [year-long campaign](#) to help educate new self-employed small business owners about federal tax responsibilities and about filing Schedule C, *Profit or Loss from Business*.

Publication 4667, *Tax Information for Small Businesses and the Self-Employed*, is a free, laminated bookmark with key search words to help locate important tax information on IRS.gov quickly and easily. You can order this free bookmark on the [Small Business Products Online Ordering page](#).

The "[Self-employed Individual's Tax Center](#)" is a new webpage available on IRS.gov that is a one-stop starting point for small businesses and self-employed taxpayers who file Schedule C with their Form 1040. It provides links to information on the most common issues faced by new business owners.

Start your **free** subscription to [e-News for Small Businesses](#) to get the latest information about future Schedule C program events, and to learn about new products and services as they become available. Subscribing is easy - just go to the [subscription page](#) at IRS.gov, type in your email address and submit.

Clients in collection status? Some resources that can help

The mortgage foreclosure situation, tightening credit, and the high cost of gas are having a grim financial effect on many Californians. Tough economic times are often accompanied by an increase in collections cases, as taxpayers find themselves with higher bills and fewer resources. If you have clients who are in collection status, wondering what they should do, here are some online resources that can help.

Glossary of collection terms

Start with our [glossary](#) of tax and collection-related terms. This is the place to find official FTB definitions of terms like "interagency intercept," "COTW" (Continuous Order to Withhold), etc.

Personal Income Tax collection information

The publication *Personal Income Tax Collections Information* ([FTB 1140](#)) is a short guide to taxpayers' rights regarding collection actions related to liens, penalties, fees, interest rates, collection action alternatives, claims for refund, and more.

Collection Notices

Did your client receive a Notice of Tax Change, or maybe an Earnings Withholding Order? Refer them to our [Bills and Notices](#) webpage for a list of commonly issued notices, what they mean, and how to respond to them.

When your client can't pay

Our first choice is to find a way to work with taxpayers in collection status. Resolving collection issues sooner than later benefits all involved parties. The taxpayer avoids penalties and interest, the employer avoids extra work, and the state saves money otherwise spent on collection activities. If you have clients who receive collection notices and can't pay, encourage them to contact us about setting up a payment arrangement. Find information on our website by searching for [installment agreement](#), or call 800.689.4776. Monday through Friday between the hours of 7:30 a.m. and 6 p.m.

Earnings Withholding Orders for Taxes

Earnings Withholding Orders for Taxes (EWOTs) affect both employees and employers. You may be familiar with EWOTs from both perspectives. If your client is receiving collection notices, and is an employee who earns wages or a salary, we will likely contact his or her employer to establish an EWOT if we are unable to resolve the tax debt another way. Although we prefer to work with the taxpayer to resolve taxes owed before getting to this point, when that doesn't work we will turn to EWOTs. The EWOT directs the taxpayer's employer to withhold a certain amount of the taxpayer's wages or salary each pay period, and transmit the amount to FTB to resolve the tax debt.

Answers to questions about EWOTs, from the perspective of both employees and employers, are found on these webpages:

- Earnings Withholding Orders for Taxes (EWOTs) – [Employer Information](#). Scroll down to the bottom of the webpage for information and answers to **employee** EWOT questions.
- EWOT [Withholding Calculator](#) has instructions for both employers and employees, on how to correctly calculate the amount that should be withheld from employees' paychecks.

Power of Attorney

To discuss your clients' accounts with you, we must have evidence of your authorization to act on behalf of your clients. This evidence can be established by our having a Power of Attorney (POA) on file for you. For quick answers to general POA questions, and to download POA forms, you can refer to our [POA website](#). You will find answers to questions about why and when POAs are needed, how to set them up, how long they remain in effect, what forms to use, and more.

When filing a POA, there are numerous options for which form to use, including:

- FTB POA [Form 3520](#).
- We also accept the IRS' Power of Attorney ([Form 2848](#)), and the IRS Tax Information Authorization ([Form 8821](#)), with certain provisions.
- Very often, when you need a POA to discuss your clients' accounts with us, you also need POAs with the IRS, the California Board of Equalization (BOE), and the

Employment Development Department (EDD). You can use BOE Form 392, which is a joint authorization form. If your client has issues to discuss with FTB, BOE, and EDD, or any combination of the three agencies, this one form takes care of all three.

You can find links to all of these forms on our POA – Forms and Publications webpage.

FTB maintains a database (the POA File) that tracks each POA on file for each taxpayer, including the representative(s) authorized to discuss the taxpayer's account with FTB, and the tax years or income periods covered by the POA. The POA File ensures that only authorized representatives receive information about taxpayers. It also means that FTB employees can immediately establish whether a caller has POA authorization. If we have proof of a POA in our file for your client, we can discuss your client with you when you call, with no waiting.

Innocent Spouse

Under some specific circumstances, your client may qualify for innocent spouse relief. Check our FAQs, and our eligibility brochure for answers to your innocent spouse questions.

More

After checking out the sources above, if you haven't found what you and your client are looking for, go to the source: the Collections Procedures Manual. Go to our website at ftb.ca.gov and search for "CPM."

Inside FTB

***Package X* discontinued**

Package X, the FTB tax forms catalogue, is going out of production. The individual forms and instructions included in *Package X* are available to download and print from our website at ftb.ca.gov. If you do not have internet access, you may request forms and instructions, or prior year *Package X* books by calling the Tax Practitioner Hotline at 916.845.7057, Monday through Friday 8:00 a.m. to 5:00 p.m.

Part of the reason we are discontinuing *Package X* is declining use and rising costs. The quantity of *Package X* catalogs printed has decreased more than 90 percent over the past decade. However, our business strategy is to provide services and information electronically, and discontinuing *Package X* is consistent with this strategy.

All forms are available on our website around-the-clock, and at no charge. An added bonus is that revised forms are available virtually immediately. You can also find information about forms changes on our forms and publications webpage.

If you have any questions, the *Package X* customer service phone number is 916.845.7070. It will be available until April 16, 2009.

November interested parties meeting for 2009 California Schedule M-3

We are developing a 2009 California Schedule M-3 (*Reconciliation of Net Income (Loss) Per Books With Income Per Return*) and want your input. We have placed draft versions on our Schedule M-3 for large and mid-size businesses [website](#), for public review and comment.

We are holding an Interested Parties Meeting in Sacramento on November 12 at 10:00 a.m. If you're an interested party, [sign up](#) soon.

Email your comments and questions about the draft Schedules to the [M-3 Mail Box](#) on our Schedule M-3 webpage.

Criminal Corner

We are committed to closing California's \$6.5 billion tax gap, defined as the difference between tax that is owed, and tax that is paid. Our special agents work cooperatively with law enforcement agencies throughout California to uncover illegal behaviors that contribute to the tax gap. These behaviors include underreporting income, overstating deductions, failing to file returns, failing to pay taxes due, and making illegal cash payments to employees.

Tax fraud is not a victimless crime. You can report suspected tax fraud by calling FTB at 800.540.3453.

Encino executive arrested for state income tax evasion

An Encino man was arrested on three felony counts of personal income tax evasion and one felony count of corporate tax evasion.

Stanley Azrilyan, 34, is listed in Secretary of State records as the sole corporate officer of Bio-Pharmaceutical Industries (BPI), Inc. According to FTB investigators, BPI, Inc. allegedly had gross income of more than \$10.3 million in 2004, and failed to file its corporate tax return for that year. In addition, Azrilyan allegedly received compensation of more than \$2.6 million from his corporation for the years 2003 to 2005 and failed to file his personal income tax returns for these same years. The corporation owes more than \$863,000 in corporate tax and Azrilyan owes more than \$240,000 in personal income tax. Penalties, interest, and the cost of the investigation will be added to these amounts.

This is a joint investigation between the Los Angeles County District Attorney's Fraud Interdiction Program and FTB.

Orland woman sentenced for state income tax evasion and embezzlement

An Orland woman was sentenced to six years and four months in state prison on felony charges of embezzlement and state income tax evasion.

Jennifer M. Sites, 38, was employed as a bookkeeper by a Chico-based industrial equipment company. According to court documents, Sites abused her position of trust with the firm by embezzling more than \$500,000 from her former employer during 2006 and 2007. In addition, Sites and her husband, Bryon J. Sites, 43, failed to file state income tax returns for these same years claiming their income and the embezzled funds. Byron Sites was sentenced to probation on misdemeanor state income tax evasion charges. All income is taxable including income from illegal sources.

Sites was ordered to pay restitution of \$581,907 to her former employer, and more than \$73,400 to FTB representing the unpaid tax, penalties, interest, and the cost of the investigation.

Los Angeles woman sentenced to prison on misappropriation of public funds, state income tax fraud

A former Los Angeles County employee was sentenced to three years in state prison and ordered to pay full restitution to her victims.

Josefina C. Belleza, 58, pleaded guilty in February to two counts of misappropriation of public funds and one count of filing a fraudulent state income tax return. According to court documents, Belleza conspired with Evelyn Tyson, 59, of Altadena, to defraud Los Angeles County out of more than \$557,500 between 2001 and 2007. Tyson was the owner of Tyson's Day Care Services, formerly known as Tyson's Family Day Care. Tyson submitted fraudulent claims to the county for childcare services not rendered, which were approved by Belleza, a former Eligibility Supervisor. The scheme was discovered through an anonymous call to the Los Angeles County Fraud Hotline. In addition, Belleza failed to claim the illegal income on her state income tax returns.

Belleza was ordered to pay Los Angeles County full restitution of the embezzled funds and pay FTB \$44,123 representing the unpaid tax, interest, penalties, and the cost of the investigation. The court has ordered the sale of Belleza's home to pay the restitution.

Tyson was sentenced in June to 16 months in prison for her role in the fraud scheme and ordered to pay FTB restitution of \$33,047.

This was a joint investigation between the Los Angeles County District Attorney's Office and FTB.

San Jose tax preparers sentenced for tax fraud

A San Jose-based tax preparer and his assistant were sentenced to county jail for aiding and abetting his clients to file fraudulent state income tax returns.

Jeff R. Welch, 62, of Gilroy, owned and operated Accountable Financial Services with Joy Ramoran, 32, of San Francisco, employed as his assistant. Welch was sentenced to four months in county jail and Ramoran was sentenced to 60 days. In addition, both were ordered to pay FTB restitution of more than \$90,200. As part of his three-year probation, Welch was also ordered to not assist in the preparation of tax returns on behalf of his clients.

According to court documents, between 2000 and 2004, the pair prepared and filed false tax returns that claimed fraudulent or fraudulently inflated Child and Dependent Care Credit Expenses. The false credits generated increased refunds on behalf of their clients. In one instance, Welch electronically filed a client's return and claimed the head of household filing status with one dependent. In reality, the client was married with two children neither of whom was in daycare. Welch and Ramoran benefited from an increase in the number of clients and from charging fees for form preparations that were not required.

This case was discovered by FTB's internal fraud detection program.
